IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.A.No.232 of 2006
Date of Decision: 9.1.2007

Commissioner of Income Tax ....Petitioner through Mr.Yogesh Putney, Advocate.

Versus

Lakhani India Limited ...Respondents through Mr.A.P.Jain, Advocate

CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE.
HON'BLE MR.JUSTICE RAJIVE BHALLA

1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Prayer in this appeal, filed by the revenue is for setting aside the order passed by the Income Tax Tribunal, Delhi Bench `A" New Delhi dated 30.8.2004 for the assessment year 1995-96.

Though a large number of questions of law have been framed, arguments have only been addressed on question of law, numbered as 5(a), which reads as follows :-

"(a). Whether the Hon'ble ITAT on facts and circumstances of the case was right in law in restoring the disallowance of

Rs.68832/- only out of total disallowance of Rs.1,68,832/- made by the Assessing Officer out of foreign travel expenses even though the assessee did not file any evidence before the Assessing Officer or before any of the appellate authority which could substantiate the purpose of the visit ?

The assessee filed a return of income tax of Rs.3,49,45.160/- for the year 1995-96. The assessment under Section 143(3) was completed on an income of Rs.3,86,73,680/-. The Assessing Officer, thus, made an addition of Rs.1,68,832/- by disallowing the expenses incurred towards foreign travel. The assessee, thereafter, filed an appeal before the Commissioner of Income Tax (Appeals). The appeal was accepted and the addition made by the Assessing Officer set aside. The revenue, thereafter, approached the Income Tax Appellate Tribunal, which vide the impugned order, restored the addition made by the Assessing Officer to the extent of Rs.68,832/-, as against Rs.1,68,832/-.

Counsel for the appellant contends that as the learned ITAT had held that the order of the Commissioner of Income Tax (Appeal) was cryptic, the said order should have been set aside. Instead, the Income Tax Appellate Tribunal partly restored the disallowance by accepting the broad contention that foreign travel in the shoe manufacturing industry was a necessity. It is contended that as the assessee failed to produce any evidence or file any details in justification of foreign travel, the entire amount disallowed by the Assessing Officer towards foreign travel, should have been restored.

Counsel for the respondent states that the impugned order does not suffer from any illegality and no question of law much less a substantial

question of law arises, the present petition be dismissed.

We have heard learned counsel for the parties and perused the paper book.

The learned Income Tax Appellate Tribunal, while dealing with the matter, as regards disallowance of expenses towards foreign travel held as follows :-

> "We have duly considered the rival contentions and the material on record. Reliance of the ld. Counsel on the earlier order of the Tribunal appears to be quite misplaced. The facts with regards to foreign travel can be, and would mostly be, different from year to year. It has not been shown to us as to how the facts in the present year are similar to those the year referred to. The Assessing Officer's finding about non-submission of details have not been controverted by any material either before the CIT(A) or before us. The CIT(A) also has simply relied on the order of his predecessor without any discussion except saying that there is enough justification. His order is too cryptic. Therefore, some disallowance is called for. We are making only part disallowance because we are accepting the broad contention of the assessee that foreign travel in shoe manufacturing industry is a must to know the latest trends and designs. Accordingly, disallowance to the extent of Rs.68,832/- is restored."

We find no illegality or perversity in the aforementioned reasoning, as regards the necessity to travel abroad, to keep abreast with latest trends and fashion in the manufacture of footwear . The failure of the

assessee to substantiate the purpose of his visit, led to the ITAT to restore the disallowance to the extent of Rs.68,832/-. We are unable to discern any question of law, much less a substantial question of law that would require adjudication by this Court. However, it would also be necessary to refer to an important fact, recorded by the ITAT. A similar allowance for foreign travel was permitted to the assessee, in the preceding assessment years. Though particulars of travel are bound to differ from year to year, the principle in essence remains the same, namely; the allowance of expenditure on foreign travel to keep abreast of latest trends in the footwear industry. Consequently, the impugned order does not call for any interference.

In view of what has been stated herein above, the present petition is dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

9.1.2007
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(RAJIVE BHALLA)
JUDGE